



**U.S. Citizenship
and Immigration
Services**

**Non-Precedent Decision of the
Administrative Appeals Office**

In Re: 29885612

Date: FEB. 21, 2024

Appeal of Nebraska Service Center Decision

Form I-140, Immigrant Petition for Alien Workers (Extraordinary Ability)

The Petitioner, a martial artist specializing in judo, seeks first-preference immigrant classification as an individual of extraordinary ability. *See* Immigration and Nationality Act (the Act), section 203(b)(1)(a), 8 U.S.C. § 1101(b)(1)(a). This classification makes immigrant visas available to those who can demonstrate their extraordinary ability through sustained national or international acclaim and whose achievements have been recognized in their field through extensive documentation.

The Director of the Nebraska Service Center denied the petition, concluding that although the record established the Petitioner met the initial evidentiary requirements for this classification, she did not demonstrate, as required, that she has sustained national or international acclaim and is among the small percentage at the very top of her field. Later, the Petitioner filed a combined motion to reopen and reconsider, which the Director dismissed. The matter is now before us on appeal. 8 C.F.R. § 103.3.

The Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). We review the questions in this matter de novo. *Matter of Christo's, Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). Upon de novo review, we will dismiss the appeal.

I. LAW

Section 203(b)(1)(A) of the Act makes immigrant visas available to noncitizens with extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim and whose achievements have been recognized in the field through extensive documentation. The noncitizen must seek to enter the United States to continue work in the area of extraordinary ability and show that their entry into the United States will substantially benefit prospectively the United States.

The term “extraordinary ability” refers only to those individuals in “that small percentage who have risen to the very top of the field of endeavor.” 8 C.F.R. § 204.5(h)(2). The implementing regulation at 8 C.F.R. § 204.5(h)(3) sets forth a multi-part analysis. First, a petitioner can demonstrate international recognition of their achievements in the field through a one-time achievement (that is, a

major, internationally recognized award). If a petitioner does not submit this evidence, then they must provide sufficient qualifying documentation that meets at least three of the ten criteria listed at 8 C.F.R. § 204.5(h)(3)(i)–(x) (including items such as awards, published material in certain media, and commercial successes).

Where a petitioner meets these initial evidence requirements, we then consider the totality of the material provided in a final merits determination and assess whether the record shows sustained national or international acclaim and demonstrates that the individual is among the small percentage at the very top of the field of endeavor. *See Kazarian v. USCIS*, 596 F.3d 1115 (9th Cir. 2010) (discussing a two-part review where the documentation is first counted and then, if fulfilling the required number of criteria, considered in the context of a final merits determination); *see also Visinscaia v. Beers*, 4 F. Supp. 3d 126, 131-32 (D.D.C. 2013); *Rijal v. USCIS*, 772 F. Supp. 2d 1339 (W.D. Wash. 2011).

II. ANALYSIS

The Petitioner is a martial artist who specializes in judo wrestling. She intends to continue her athletic career in the United States and eventually coach national teams competing in worldwide competitions, such as the Olympics.

Because the Petitioner has not indicated or established that she received a major, internationally recognized award, she is required to satisfy at least three of the alternate regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i)–(x). The Director concluded that the Petitioner met four criteria by establishing that she received nationally recognized awards, was a member of an association requiring outstanding achievements, was the subject of published material in major media, and participated as a judge of the work of others in the same field. *See* 8 C.F.R. § 204.5(h)(3)(i), (ii), (iii) and (iv). The record supports this conclusion.

Since the Petitioner demonstrated that she met the initial evidence requirements, the Director proceeded to a final merits determination. In a final merits determination, U.S. Citizenship and Immigration Services (USCIS) must analyze all of a petitioner's accomplishments and weigh the totality of the evidence to determine if their successes are sufficient to demonstrate that they have extraordinary ability in the field of endeavor. *See* section 203(b)(1)(A)(i) of the Act; 8 C.F.R. § 204.5(h)(2) and (3); *see also Kazarian*, 596 F.3d at 1119-20. In this matter, the Director determined that the Petitioner did not demonstrate she meets this very high standard.

The Petitioner filed the petition in January 2023. The record shows that the Petitioner has participated in competitive martial arts since 2003, receiving dozens of medals at various competition levels as a junior and an adult. The Petitioner also competed as part of the [REDACTED] in the 2020 Olympics. The Director's denial and motion decisions explained, in part, that the Petitioner did not demonstrate recent sustained acclaim because she did not show that she won medals in the years following 2019. Specifically, the Director's initial denial informed the Petitioner that photos of what she attested to be her judo academy team at the [REDACTED] in 2022 and her gold medal from that tournament were insufficient, without corroborating evidence, to demonstrate her participation in the event. On motion, the Petitioner submitted, in part, a letter from the president of the judo club that hosted the 2022 tournament; this letter attested to her participation and receipt of a gold medal, and it

listed the names other winners, the referee, and judges. It was accompanied by detailed charts and lists showing the names of participants, their attributes, round results, and placings. The Director's denial of the motion stated the following with regard to the club president's letter (quoted as written):

He writes to confirm that the petitioner competed at the event and won a gold medal. However, he submitted no documentation of the petitioner's receipt of this medal, and simply going on the record without supporting substantive evidence to support assertions, are not sufficient in these proceedings.

On appeal, the Petitioner contends the following (quoted as written):

USCIS can reject testimonial evidence it finds not credible or contradicted by documentary evidence in the administrative record. [...] Here, USCIS did not make either finding here, explicitly or implicitly. Furthermore, the record does not show that the testimonial evidences were internally inconsistent or contradictory. Therefore, Petitioner argues that USCIS must have considered Petitioner's testimonial evidences before it made its adverse final decision on Petitioner's I-290B, motion to reopen and reconsider.

We agree with the Petitioner's reasoning that the Director should have considered the credibility of the club president's letter within the context of the entirety of the evidence submitted; the Director should have explained the specific reasons why he did not find the letter probative in the motion decision. *See* 8 C.F.R. § 103.3(a)(1)(i). We acknowledge that the Petitioner did not submit contemporaneous evidence to demonstrate her participation in the 2022 tournament; however, we take administrative notice that an open-source internet search returns images of the tournament's 2022 medal that reflect the photos the Petitioner submitted of what she attests is her gold medal. The record does not contain documentation that would call into question the veracity of the club president's detailed letter; therefore, we do not doubt its credibility.

A letter included with the Petitioner's motion and appeal from the chief secretary of the Mongolian Judo Association emphasizes that, if not for the global pandemic and the resulting cancellation of several tournaments, the Petitioner would have competed in those tournaments and that she "and other athletes...would have achieved outstanding achievement if the...tournaments were organized through the schedule." While we cannot speculate as to whether the Petitioner would have medaled in the canceled tournaments, we recognize the Petitioner's rationale that, because many competitions were postponed, consideration of her previous athletic record should weigh favorably in her argument of having sustained acclaim in her field.

The record shows that the Petitioner has an extensive history of success in martial arts tournaments; she has participated in competitions at the national and international level and has earned fourteen bronze, twelve silver, and eleven gold medals at major competitions. Letters from colleagues demonstrate her comparably impressive record in terms of numbers of medals. The record also shows that the Petitioner's skills earned her a place on the [REDACTED], which the record demonstrates is a significant accomplishment for judo athletes.

However, with regard to the remaining evidence of record, we agree with the Director that the weight given to evidence depends on the extent to which such evidence demonstrates, reflects, or is consistent with the sustained national or international acclaim enjoyed by those at the very top of their field of endeavor. A lesser showing would be inconsistent with the regulatory definition of “extraordinary ability” as “a level of expertise indicating that the individual is one of that small percentage who have risen to the very top of the field of endeavor.” *See* 8 C.F.R. § 204.5(h)(3). For example, the Petitioner submitted a 2018 article from a national newspaper in Mongolia in which she is interviewed discussing her athletic history. While the article highlights the Petitioner’s accomplishments as a martial artist—even pointing out her wins in areas outside of judo, such as sumo wrestling—it would be reasonable to expect that an athlete at the top of her field would have received greater media recognition than can be attributed to a single article that appeared several years prior to her filing of this petition asserting her extraordinary ability.

As another example, the Petitioner submitted evidence showing that she received a certificate for national referee training from the Referee Council under the Mongolian Judo Association. The record includes documentation demonstrating that she judged the performance of others in her field at three judo events in 2018 and 2021, and a letter of support asserts that she is a “talented and promising referee.” While this evidence shows that the Petitioner’s training and ability in judo qualified her for these referee positions, the record does not include documentation detailing the capacity in which these events were held or their level of notability, such as whether the prestige of these events would warrant the participation of an athlete of sustained acclaim who is at the top of her field or that other top athletes have been involved in these events. Based on the entirety of the record, we conclude that the Petitioner has not established that she is an athlete at the top of her field who enjoys sustained acclaim for achievements recognized nationally or internationally.

Just as important as the evidence of record is in evaluating the Petitioner’s qualifications as an individual of extraordinary ability is the absence of probative evidence in the record regarding her future plans to continue competing as a martial arts athlete and to begin a career as a coach. *See* 8 C.F.R. § 204.5(h)(5). In response to a request for evidence, the Petitioner stated that she intends to continue her athletic career in the United States until 2025, simultaneously working as an instructor at a judo academy in [] that has offered her a position. The Petitioner stated that she intends to eventually open her own academy and use her athletic and coaching experience at the academies to become a coach for U.S. national teams. The record, however, does not include evidence to demonstrate the Petitioner’s ability or experience as a coach. We cannot presume that an individual’s success as an athlete in a particular field will translate to an extraordinary ability to instruct others to perform in that field. While the evidence of record supports a determination that the Petitioner is a talented and successful athlete, there is insufficient objective evidence to establish whether or how her career as an athlete demonstrates acclaim and recognition in the field as a coach. *Matter of Chawathe*, 25 I&N Dec. at 376.

The Petitioner seeks a highly restrictive visa classification intended for individuals who are at the top of their respective fields, rather than for individuals progressing toward the top or those who achieved, but did not maintain, the required national or international acclaim. USCIS has long held that even athletes performing at the major league level do not automatically meet the “extraordinary ability” standard. *Matter of Price*, 20 I&N Dec. 953, 954 (Assoc. Comm’r 1994).

On review, the balance of the record demonstrates that the Petitioner is an accomplished martial artist who has garnered medals in both national and international competitions. However, the record does not contain sufficient evidence to demonstrate that the Petitioner has attained acclaim and recognition as an athlete or a coach. She did not demonstrate through “extensive documentation” her experience as either an athlete or a coach such that we could conclude that she has a “career of acclaimed work in the field” as contemplated by Congress. H.R. Rep. No. 101-723, 59 (Sept. 19, 1990); *see also* section 203(b)(1)(A) of the Act. As such, the record does not indicate she currently has a degree of recognition for her achievements consistent with the sustained acclaim that the statute demands. Moreover, the record does not otherwise demonstrate that the Petitioner is one of the small percentage who has risen to the very top of the field of endeavor. *See* section 203(b)(1)(A) of the Act; 8 C.F.R. § 204.5(h)(2).

III. CONCLUSION

For the reasons discussed above, the Petitioner has not demonstrated her eligibility as an individual of extraordinary ability. The appeal will be dismissed for the above stated reasons.

ORDER: The appeal is dismissed.